



ARIZONA STATE SENATE
Fifty-Fourth Legislature, Second Regular Session

AMENDED
FACT SHEET FOR S.B. 1224

empowerment scholarships; qualified schools; reservations

Purpose

Allows a qualified student who resides on an Indian reservation to use Arizona Empowerment Scholarship Account (ESA) monies to attend a nongovernmental school located in an adjacent state within two miles of the Arizona border. Modifies requirements relating to ESA administration and appropriates \$1,100,000 in FY 2021 from the state General Fund (state GF) to the Arizona Department of Education (ADE) and the State Board of Education (SBE) for ESA administration.

Background

A qualified student may use ESA monies for required textbooks and tuition or fees at a qualified school. For the purposes of ESAs, a *qualified school* is a nongovernmental primary or secondary school or preschool for pupils with disabilities that is located in Arizona and does not discriminate on the basis of race, color or national origin ([A.R.S. § 15-2401](#)).

For the purposes of ESAs, a *qualified student* is a resident of Arizona who is any of the following: 1) a child with disabilities; 2) a student attending D and F schools or school districts; 3) a previous ESA and Arizona Scholarships for Pupils with Disabilities Program (ASPDP) recipient; 4) a child with a parent in the U.S. Armed Forces who is on active duty or was killed in the line of duty; 5) a child who is or was a ward of the court with a permanent guardian or prospective permanent guardian; 6) a sibling of current or previous ESA recipients; 7) a resident of an Indian reservation in Arizona; or 8) a child of a parent who is legally blind, deaf or hard of hearing ([A.R.S. § 15-2401](#)).

Current statute allows ADE to deposit up to five percent of the sum of the base support level and additional assistance for each student with an ESA in an ESA fund. ADE must transfer one percent of the sum to the State Treasurer (Treasurer) for deposit in an ESA fund. Monies in the ESA funds are used for the costs of administering ESAs ([15-2402](#)).

The Joint Legislative Budget Committee fiscal note indicates that the fiscal impact of the permanent change in the definition of *qualified school* is unknown, as data to quantify the impact is not available ([JLBC](#)).

In addition, S.B. 1224 appropriates \$1,100,000 in FY 2021 from the state GF to ADE and SBE.

Provisions

Program Modifications

1. Includes, as a *qualified school*, a nongovernmental school, for students residing in an Indian reservation in Arizona, that is located:
 - a) in an adjacent state; and
 - b) within two miles of the Arizona border.
2. Allows ESA monies to be used for goods and supplementary materials.
3. Removes the ability to use ESA monies as contributions to a Coverdell education savings account.
4. Requires ADE to notify a parent that has not renewed their student's ESA in three academic years that the ESA will be closed in 60 calendar days through certified mail, email and telephone, if applicable.
5. Requires ADE to close an ESA and return any remaining monies to the state if a parent chooses not to renew or does not respond to the notification within 60 calendar days.

Administrative Rules and Handbook

6. Requires SBE, rather than ADE, to adopt rules and policies to administer ESAs in cooperation with ADE by November 1, 2020, retroactive to the filing date with the Secretary of State (SOS).
7. Allows SBE to use existing ADE resources and policy documents to guide the rulemaking process.
8. Requires ADE, by July 1 of each year, to develop and post on its website an applicant and participant handbook that includes information related to ESA policies and processes and complies with SBE rules.

Appeal Process

9. Shifts, from the ADE to SBE, the responsibility to accept a parent's appeal of an ESA administrative decision and refer cases of misuse to the Attorney General (AG) upon obtainment of evidence of fraud.
10. Requires SBE to establish a process for a parent to appeal a decision made by ADE relating to ESA administration, including determinations of allowable expenses, removal from the program or enrollment eligibility.
11. Requires ADE to notify a parent in writing of their ability to appeal an administrative decision at the time a decision is made by ADE and post information on the appeal process in the same location as the policy handbook.

Program Funding

12. Removes ADE's ability to deposit up to five percent of the sum of the base support level and additional assistance for each ESA student into the ESA fund maintained by ADE.
13. Removes the requirement that ADE transfer one percent of the sum of the base support level and additional assistance into the ESA fund maintained by the Treasurer.
14. Specifies monies in the ESA funds maintained by ADE and the Treasurer are appropriated by the Legislature.
15. Requires ADE and the Treasurer to list monies in the ESA funds as separate line items in budget estimates.
16. Appropriates the following in FY 2021 from the state GF to ADE's ESA fund:
 - a) \$276,000 and five full-time equivalent positions (FTEs) for an ESA dedicated call center;
 - b) \$388,000 and six FTEs for ESA case managers; and
 - c) \$136,000 and two FTEs for accounting staff.
17. Appropriates \$150,000 in FY 2021 from the state GF to ADE to conduct statewide seminars and trainings for ESA applicants and staff development, marketing and community outreach, particularly in rural communities.
18. Appropriates \$100,000 and one FTE in FY 2021 from the state GF to SBE for administrative support in the rulemaking and appeal processes.
19. Appropriates \$50,000 in FY 2021 from the state GF to SBE for AG legal services related to ESA appeals.
20. Exempts the outlined appropriations from lapsing.

Miscellaneous

21. Requires, retroactive to the filing date with the SOS, the AG to provide written guidance to ADE and SBE regarding the types of ESA information collected that is subject to public and records requests under state and federal law, including the Family Educational Rights and Privacy Act of 1974.
22. Includes *stepparent* in the definition of *parent*.
23. Modifies the definition of *curriculum* to include recommended supplemental materials.
24. Makes technical and conforming changes.
25. Becomes effective on the general effective date, with retroactive provisions as noted.

Amendments Adopted by Committee

- Requires the qualifying school in an adjacent state to be within two miles of the Arizona border, rather than within two miles of the Indian reservation boundary.

Amendments Adopted by Committee of the Whole

1. Modifies the list of expenses eligible to be purchased using ESA monies.
2. Establishes a process for ADE to close an ESA upon a parent's failure to renew within three academic years.
3. Shifts various ESA administrative responsibilities from ADE to SBE, including reporting fraud and the adoption of policies and an appeal process.
4. Requires ADE to notify parents of the appeal process and develop a policy handbook.
5. Modifies appropriation and reporting requirements for the ESA funds maintained by ADE and the Treasurer.
6. Appropriates monies to ADE and SBE for FTEs, legal services, and to conduct ESA related seminars, trainings, marketing and community outreach.
7. Requires the AG to provide guidance to ADE and SBE relating to ESA information public records requests.
8. Modifies the definition of curriculum and contains retroactive provisions as noted.

Senate Action

ED 2/4/20 DPA 6-3-0

Prepared by Senate Research

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JO/JP/gs